

BEFORE THE IDAHO BOARD OF TAX APPEALS

MICHAEL AND KIMBERLY BROWN,)	
)	
Appellants,)	APPEAL NO. 15-A-1040
)	
v.)	FINAL DECISION
)	AND ORDER
ADA COUNTY,)	
)	
Respondent.)	
)	
)	
)	

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Ada County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. R8313650010. The appeal concerns the 2015 tax year.

This matter came on for hearing September 23, 2015 in Boise, Idaho before Board Member Leland Heinrich. Attorney Brian Webb appeared at hearing for Appellants. Ada County Deputy Prosecuting Attorney Lorna Jorgensen represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

The issue on appeal concerns the market value of an improved residential property.

The decision of the Ada County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$287,500, and the improvements' value is \$1,211,800, totaling \$1,499,300. Appellants contend the correct land value is \$100,000, and the improvements' value is \$450,000, totaling \$550,000.

The subject property is a 10.02 acre parcel located in Eagle, Idaho. The parcel is improved with a residence consisting of 7,100 total square feet distributed across the main level,

the upper level, and the walk-out basement. The residence includes five (5) bedrooms and six and one-half (6 ½) bathrooms, and was constructed in 1999. The property is further improved with a 1,292 square foot garage, an outdoor swimming pool, and extensive landscaping.

Appellants purchased subject in June 2015 for \$594,000. Respondent contested Appellants' standing to bring the appeal because title to the subject property was not recorded in Appellants' names until after the June 22, 2015 appeal deadline to the Ada County Board of Equalization (BOE). Indeed, the BOE dismissed the timely filed appeal due to Appellants' lack of standing. Appellants argued they had an equitable interest in the property by virtue of the purchase and sale agreement executed on June 1, 2015, and therefore had standing to bring the appeal.

As for subject's valuation, Appellants noted the overall poor condition of the property. Specifically, Appellants described deficiency issues related to the roof, exterior stucco, mold, water damage, broken windows, the outdoor pool, and irrigation sprinklers. Appellants did not provide cost-to-cure estimates from third party contractors, however, through informal inquiries estimated total repair costs upward of \$250,000. After being informed of subject's condition issues, Respondent inspected the property and agreed the property suffered from some notable deficiencies.

Appellants also provided an independent fee appraisal concerning subject. The appraisal considered four (4) sales and one (1) active listing. Three (3) of the sales occurred in 2015 and the remaining sale closed in late 2014. The sale residences were generally similar to subject in terms of size, location, and overall design. The majority of the sale lots, however, were much smaller than subject's lot. The appraisal noted subject's deferred maintenance issues and

downgraded the quality and condition of the residence accordingly. Sale prices ranged from \$490,000 to \$1,200,000. After making adjustments for physical differences compared to subject, the appraisal determined adjusted sale prices between \$647,100 and \$798,700. The appraisal concluded a total value of \$675,000 for subject.

Appellants also provided multiple listing service (MLS) data sheets concerning five (5) sale properties considered by Appellants to be comparable to subject. The first involved a 6,335 square foot residence situated on a 4.99 acre parcel in Meridian which sold in May 2015 for \$675,000. Respondent remarked this sale was inferior to subject in terms of quality and location. Sale No. 2 was a 1.45 acre lot in Middleton improved with a 7,240 square foot residence. The property sold in May 2015 for \$415,000. Respondent regarded this sale property as dissimilar to subject in all key aspects except size, and also noted the sale closed in May 2015. Sale No. 3 concerned a 6,971 square foot residence attached to a 5.11 acre lot in Eagle, which sold for \$750,000. Respondent commented this was the most comparable of Appellants' sales, however, maintained the construction quality was inferior to subject's. Sale No. 4 was a 5,581 square foot residence situated on a 1.0 acre lot in Eagle, which sold for \$625,000 in late 2014. Respondent characterized this sale as inferior to subject in terms of size, quality, and overall appeal. The final sale involved a 5,591 square foot residence on a 10.0 acre lot in Middleton. The property sold in 2014 for \$499,000. Respondent pointed out the sale residence was nearly 10 years older than subject and ranch-style design was not comparable to subject's estate design.

Respondent provided information regarding six (6) sales and one (1) active listing from the Eagle area. The sale residences ranged in size from 4,834 to 10,071 square feet and all

were newer than subject. Lot sizes were smaller than subject, with a range of 1.0 to 5.101 acres. Sale prices were between \$950,000 and \$1,271,500. Sale No. 5 was a foreclosure sale with extensive deferred maintenance issues which closed in early 2015 for \$950,000. Respondent explained Sale No. 5 and the active listing were included only as a test of reasonableness for the value conclusion reached using the other sales information. Respondent adjusted the sales to account for differences compared to subject such as square footage, bedroom and bathroom count, location, lot size, and age. An upward time adjustment of .31% per month was also applied to the sale prices. Adjusted sale prices ranged from \$924,345 to \$1,305,945.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

There are two (2) primary issues for the Board's consideration, each of which will be addressed individually. The first centers on whether Appellants have standing to bring the current appeal. Respondent noted Appellants were not the record owners of the subject property on June 22, 2015, the last day by which to timely file a protest with the BOE. As such, Respondent contended Appellants did not have standing, and the Board lacks jurisdiction to hear this appeal. Appellants countered a binding real estate sale and purchase agreement with the seller was in effect prior to the BOE appeal deadline, thereby giving Appellants an equitable interest in the subject property and the necessary standing to bring the appeal.

"It is a fundamental tenant of American jurisprudence that a person wishing to invoke a court's jurisdiction must have standing", and any questions regarding standing must be determined prior to considering the merits of an appeal. *Young v. City of Ketchum*, 137 Idaho 102, 104, 44 P.3d 1157, 1159 (2002). For a question of standing, Idaho looks to guidance from the U.S. Supreme Court, which requires, "a plaintiff must show (1) an 'injury in fact,' (2) a sufficient 'causal connection between the injury and the conduct complained of,' and (3) a 'like[lihood]' that the injury 'will be redressed by a favorable decision.'" *State v. Philip Morris, Inc.* 2015 Ida. LEXIS 147, 20 (quoting *Susan B. Anthony List v. Driehaus* 134 S.Ct. 2334, 2341 (2014)).

Appealing to this Board from a decision of the county board of equalization is restricted to certain persons. Specifically, an appeal "may only be filed by the property owner, the assessor, the state tax commission or by a person aggrieved when he deems such action illegal or prejudicial to the public interest." Idaho Code § 63-511. In the instant case, Respondent argued Appellants lacked standing to appeal because they were not the record owners. We disagree.

While Appellants were not the owners of record on the relevant date, they were the equitable owners by virtue of the executed purchase and sale agreement with the seller of the subject property. It is a well understood legal principle when a purchaser under a contract for sale of real property ". . . has performed or offered to perform his covenants at the date provided for a conveyance, equity considers the property as belonging to him as of that date, and that the owner is a mere holder of the legal title in trust for him." *Donaldson v. The Thousand Springs Power Company*, 29 Idaho 735, 747, 162 P. 334, 338 (1916). The Court in *Donaldson* further

explained,

Where real estate is sold under a valid contract, the purchase money to be paid in part and the deed executed at a future day, the equitable title passes at once to the vendee, and equity treats the vendor as a trustee for the purchaser of the estate sold, and the purchaser as a trustee of the purchase money for the vendor, since equity treats things agreed to be done as done. Where real estate is agreed to be conveyed by an executory contract of sale without reservation, the equitable title passes at once to the vendee, and where a party holding a contract of purchase has, by performance on his part, placed himself in a position to compel specific performance, he holds the equitable title. *Id.*

The record here shows Appellants (vendee) entered into a real estate purchase and sale agreement with the seller (vendor) on May 19, 2015, which agreement was executed on June 1, 2015. As of this latter date, Appellants held equitable title to the subject property and were therefore owners for the purpose of pursuing an appeal of subject's assessed value. That the special warranty deed was not recorded until June 30, 2015 is not controlling. Upon execution of the purchase and sale agreement, Appellants had fulfilled their obligations and were in a position to compel the seller's performance to transfer title. Even if Appellants were not considered owners until the deed was recorded, they certainly have standing as persons aggrieved, by virtue of being responsible for 2015 taxes on the property.

We turn now to the second issue¹ concerning the market value of the subject property. Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2015 in this case. Market value is defined in Idaho Code § 63-201, as,

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable

¹It should be noted the BOE did not hear Appellants' market value claim, but rather removed the protest from the hearing calendar prior to a hearing due to Appellants' perceived lack of standing. This action amounted to a failure to act with respect to Appellants' market value claim. Such failure to act is appealable to the BTA pursuant to Idaho Code § 63-511.

time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The three (3) primary methods of determining market value include the income approach, the cost approach, and the sales comparison approach. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Residential property is commonly valued using the sales comparison approach.

Both parties offered information relevant to a sales comparison approach. The majority of Appellants' sales information, however, occurred after the January 1, 2015 effective date of valuation. Typically, a sales comparison approach considers market data from prior to the valuation date because future information is not known or available. Accordingly, the Board did not rely on Appellants' 2015 sales, nor the final value conclusion reached in the fee appraisal because it estimated subject's value as of June 8, 2015, using primarily 2015 market data. The Board also placed minimal weight on Appellants' Sale No. 5 because it involved a notably older residence with a dissimilar ranch-style design.

Respondent's sales information, on the other hand, was generally well received by the Board. The timely market data included four (4) sales involving residences roughly similar to subject in terms of size, location, and design. Adjustments were made to the sale prices for differences between subject and the compared properties, resulting in adjusted sale prices ranging from \$1,140,132 to \$1,305,945.

While Respondent's sales information and corresponding analysis generally supported subject's assessed value, the Board did not find adequate consideration was given to subject's serious deferred maintenance issues. Only Respondent's Sale No. 5 suffered serious condition issues at the time of sale. Not surprisingly, this property sold for less than all the others. The

parties agreed subject needs some serious rehabilitation, however, it was not apparent to the Board how this factored into Respondent's analysis. The Board found it error to not consider or not demonstrate the appraisal consideration of this evident value factor.

Idaho Code § 63-511 places the burden of proving error in subject's assessment by a preponderance of the evidence on Appellants. Given the evidence presented in this matter, the Board finds the burden of proof satisfied and will reduce subject's value due to the recognized deferred maintenance issues.

Based on the above, the decision of the Ada County Board of Equalization is modified to reflect a decrease in the value of the improvements to \$1,090,000, with no change to the land value, resulting in a total value of \$1,377,500.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease in subject's total value to \$1,377,500, as detailed above.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

Idaho Code § 63-3813 provides that under certain circumstances the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 2nd day of February, 2016.